

**FILED**

JUL 15 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KUN SHAN PENG  
Petitioner

v.

JAMES TILTON, Director of  
C.D.C.

ROBERT L. AYERS JR. Warden  
of San Quentin State Prison  
Respondent

No. C 07-4797 MMC(PR)

MOTION TO DENY  
APPLICATION FOR  
EXTENSION OF TIME  
TO FILE RESPONSE  
TO BE GRANTED

I, KUN SHAN PENG, declare under penalty of perjury  
as follows:

1. I have received "Application For Extension of Time to  
file Response" from ARTHUR P. BEEVER, who is an Attorney  
for Respondent, on July 10, 2008.

2. The reasons I request to deny "Application for Extension  
of Time to File Response" are:

① because it has been submitted "UNTIMELY".

a. According to "ORDER TO SHOW CAUSE" filed on Apr. 10, 2008  
on page 3, CONCLUSION, NO. 2, which reads, "Respondents  
shall file with the Court and serve on petitioner, within  
ninety (90) days of the date this order is filed." The date  
that the order was filed was on Apr. 10, 2008. So

1 the end of 90 days should be July 8, 2008 .

2 b. In CONCLUSION NO. 6 , which reads , " --- , requests for a  
3 reasonable extension of time will be granted as long as they  
4 are filed on or before the deadline (July 8, 2008) they seek  
5 to extend . "

6 c. In other words , " The Application For Extension Of Time To  
7 File Response " made by Deputy Attorney General ARTHUR P.

8 BEEVER should be filed on or before the deadline

9 July 8, 2008 . Actually , the application was submitted on  
10 July 9, 2008 . This is the first reason why " The Application  
11 For Extension of Time To File Response " should not be granted .

12 ③ because it still used the wrong Respondent's name . On Apr. 11 ,  
13 2008 , the day that I have received " ORDER TO SHOW CAUSE "  
14 from the COURT CLERK . On Apr. 12, 2008 , I have mailed 2  
15 letters , 1 for RICHARD W. WIEKING , COURT CLERK ; 1 for  
16 JERRY BROWN (Attorney General) (Attorney General) should be  
17 EDMUND G. BROWN JR. . It was a mistake . ) These 2  
18 letters were of the same contents , to inform that the  
19 Respondent in " ORDER TO SHOW CAUSE " was BEN CURRY which  
20 was a mistake . I have been transferred to San Quentin  
21 State Prison on 11/21/2007 . The Respondent should be ROBERT  
22 L. AYERS JR. , San Quentin State Prison Warden . " The  
23 Application For Extension of Time To File Response " still used  
24 Ben Curry , who is C.T.F. - Soledad Warden . This is obviously  
25 a mistake . If the Attorney for Respondent cannot make sure  
26 who is the right Respondent , it would be very ridiculous .  
27 This is the second reason why " the Application for Extension  
28 to file Response " should not be granted .

WHEREFORE, "the Application for Extension of Time to file Response" must be denied and dismissed.

① Since on or before deadline date (July 8, 2008) "the Application for Extension of Time to file Response" was not submitted;

② and no response has been submitted before deadline date (July 8, 2008),

so I had to be ordered by Hon. Judge MAXINE M. CHESNEY to be released from state prison.

DATED: July 10, 2008

Respectfully submitted

Peng, Kun Shan

PENG, KUN SHAN

C.D.C. #: H-52106

Room #: 5N06L

PROOF OF SERVICE BY MAIL  
BY PERSON IN STATE CUSTODY  
(C.C.P. §§ 1013 (A), 2515.5)

I, PENG, KUN SHAN, declare:

I am over 18 years of age and I am party to this action. I am a resident of SAN QUENTIN STATE PRISON, in the County of Marin, State of California. My prison address is:

PENG, KUN SHAN, CDCR #: H-52106  
Room #: 5N06L

SAN QUENTIN STATE PRISON  
SAN QUENTIN, CA 94974

On July 11, 2008, I served the attached:

MOTION TO DENY APPLICATION FOR EXTENSION OF TIME TO  
FILE RESPONSE TO BE GRANTED

on the parties herein by placing true and correct copies thereof, enclosed in a seal envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

① RICHARD W. WIEKING  
COURT CLERK  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
U.S. Courthouse  
450 GOLDEN GATE AVENUE  
SAN FRANCISCO, CA 94102-3483  
Tel: (415) 522-2000

② ARTHUR P. BEEVER  
Deputy Attorney General  
455 GOLDEN GATE AVENUE,  
SUITE 11000  
SAN FRANCISCO, CA 94102-7004  
Tel: (415) 703-5865

I declare under penalty of perjury that the foregoing is true.  
Executed on July 11, 2008 PENG, KUN SHAN

PENG, KUN SHAN H-52106 Room: 5N06 L  
San Quentin State Prison  
San Quentin, CA 94974

Legal Mail

RICHARD W. WIEKING

COURT CLERK

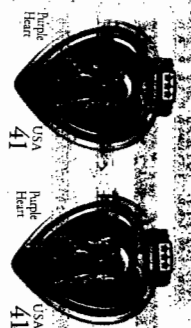
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

U.S. Courthouse

450 GOLDEN GATE AVENUE

SAN FRANCISCO, CA 94102-3483

341023483 0004  
Tel: (415) 522-2000



Legal Mail

8/11/08

WST